

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Tribal Welfare – East Godavari District – Revision Petition filed by Smt.Thummala Chittamma W/o late Satyanarayana Murthy and other under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of the Agent to Government, Kakinada in CMA No.30/1981, dated 20-4-1990 – Dismissed – Orders – Issued.

SOCIAL WELFARE (LTR - 2) DEPARTMENT

G.O.Ms.No. 57

Dated:05-06-2009

Read the following:-

1. From Smt.Thumala Chittamma and other, East Godavari Dist.
Revision Petition, Dt: 17/03/2003.
- 2.Govt. e.Memo.No.33462/LTR-2/2003-1 Dt:7-6-2003, 2-8-2003, 26-2-04,
23-7-04.
- 3.From the Collector, Kakinada, Lr.Rc.F2/6654/03, dt.26-8-04.
- 4.Govt.Lr.No.33462/LTR-2/2003, Dt:14-8-2008 and 22-12-08,

ORDER:

In the reference first read above, Smt.Thummala Chittamma W/o late Satyanarayana Murthy and other R/o Pulimeru Peddapuram (M) East Godavari District filed Revision Petition before the Government under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of Agent to Government, Kakinada in CMA No.30/1981, dt.20-4-1990, in respect of lands in R.S.Nos.78 and 75 extent of Ac.2.38 and 3.00 respectively situated in Thimmapuram village of Addateegala Mandal in East Godavari District . The grounds submitted by the Revision Petitioner are as under:-

- i) The Agent to Govt. & Special Deputy Collector (TW) Rampachodavaram erred in confirming the order in restoring the land of an extent of Ac.2.38 to the Government, when the original owner's possession and occupation of the same is under a valid transfer.
- ii) When the non-tribal transferor Akula Yerukalamma is very much on record, she should have been restored so that the petitioners could work out their rights against her.

2. The brief facts of the case are that the Spl.Dy.Tahsildar (TW) filed complaint before the Special Deputy Collector (TW) Rampachodavaram against the non-tribal Tummala Satyanarayana Murthy as he was in possession of immovable property in contravention of LTR provisions. Accordingly, the SDC (TW) Rampachodavaram conducted enquiry in LTRP No.828/79 and allowed/dropped the case on 19.2.1981 on the following grounds:

- As per 1902 settlement accounts, Sri Gondireddi Venkataswamy was the registered pattedar of land in RS No.78 admeasuring Ac.5.38 cents. Later it was devolved on his daughter Smt.Akula Yerukalamma by inheritance. Thus, she was the pattedar as per 1932 Settlement. On 27.5.1960 she mortgaged the property to another non-tribal Sri Tummala Satyanarayana Murthy through registered deed. Both are non-tribals. No tribal was ever in possession. Out of the total extent of Ac.5.38 cents, Tummala Satyanarayana Murthy purchased Ac.2.38 in pursuance of an agreement dt. 30.7.1969 through registered sale deed on 24.7.1970. As there was no prohibited transfer involved to the extent of Ac.3.00, the complaint of SDT (TW) was dropped. With regard to the extent of Ac.2.38, the unregistered agreement dt. 30.7.1969 can be executed at any time with ante-date. This agreement was executed to defeat the LTR provisions.
- The amended regulation I of 1970 prohibiting transfer of lands between non-tribals came into force w.e.f. 3.2.1970 and hence the transfer between the above two non-tribals held on 24.7.1970 was hit by LTR provisions. Therefore, allowed the complaint of SDT (TW) to the extent of Ac.2.38 and ordered for restoration to Govt. custody.

3. The Agent to Govt. East Godavari District also confirmed the above orders of Special Deputy Collector (TW) Rampachodavaram in CMA No.30/81, dt. 20.4.1990.

4. In the reference 2nd read above the Collector, East Godavari District was requested to furnish parawise remarks and case records the same were received vide reference 3rd read above. After examination of the parawise remarks and case records, notices were sent to the concerned to attend the hearing of the revision petition on 23-8-2008 and was on 31-12-2008 vide reference 4th read above. The Counsel for petitioner attended on 31-12-2008 and prayed time for submission of written arguments. The Counsel had submitted written arguments on 4.1.2009 stating that the 2nd respondent Akula Yerukamma sold the above land under an agreement of sale dt. 30.7.1969 and subsequently the same was registered on 24.7.1970. The registered sale is nothing but continuation of the sale transaction in agreement of sale dated 30.7.1969. Moreover, the petitioners and their predecessors have been in possession and enjoyment of the land right from 27.5.1960 i.e. from the date of registered mortgage deed.

5. Government after careful examination of case record of lower and appellate authorities, grounds urged by the petitioners in the RP, and subsequent written arguments of the Counsel for petitioners observed that- the lower and appellate authorities have rightly adjudicated the case. The sale agreement dt. 30.7.1969 was pressed in only to defeat LTR provisions. The transfer through registered sale deed on 24.7.1970 is clearly hit by APSALT 1/59 as amended by Act 1/70. The other argument of the counsel for petitioner for restoration of the property back to the original pattadar i.e. Akula Yerukamma cannot be accepted in the light of Full Bench Judgement of the Hon'ble High Court of AP in "*Vemana Somamma Vs Dy. Collector TW Rampachodavaram – Writ Appeal No.78/91 and 1664/98 and WP No.13377/86 and 13470/86, dt. 17.2.1993. The Non-Tribal Transferor is not entitled to have the land restored to him under clause (a) of sub-section 2 of Section 3 of APSALT Regulation 1/59 as amended by 1/70 has no application to such transfer. Even the transferee Non-Tribe is also not entitled to retain the property.*"

6. Therefore the Revision Petition is dismissed duly upholding the orders of the Agent to Govt. East Godavari District in CMA No.30/1981, dt. 20.4.1990 confirming orders of SDC (TW) Rampachodavaram in LTRP No.828/79, dt. 19.2.1981.

7. The counsel for the petitioner is requested to inform his clients accordingly. The Collector, East Godavari / Addl. Agent to Government and Project Officer, I.T.D.A., Rampachodavaram are requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
Pr. SECRETARY TO GOVERNMENT

To

The Collector, East Godavari District.

(With RPAD for the following records)

1.LTR Case file No.828/70, containing pages (54)

2.Addl. Agent to Govt. Kkinada in CMA No.30/81 containing pages.(78+8).

The Addl. Agent to Government & Project Officer, ITDA,
Rampachodavaram, East Godavari

The Spl.Dy.Collector,(TW) . Rampachodavaram, East Godavari

Smt.Thummala Chittamma W/o late Satyanarayana Murthy and other

R/o Pulimeru Peddapuram (M) East Godavari District

Smt.Thummala Ayyanna s/o late Satyanarayana Murthy

R/o Pulimeru Peddapuram (M) East Godavari District

Akula Yerukamma R/o Timmapuram,

Addateegala (M) E.G.District.

Copy to the P.S. to M (TW& RIAD)

FORWARDED:BY ORDER

SECTION OFFICER